

10/14/08

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MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA
FOR MEETING HELD ON TUESDAY EVENING, September 16, 2008

The City Council met at 5:00 pm, on the above-mentioned date, for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and Conference with Real Property Negotiator pursuant to Government Code Section 54956.8; Property: APN 015-31-063; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee) Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Unit #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and Conference with Legal Counsel pursuant to Government Code Section 54956.9(b) regarding Anticipated Litigation with City as potential defendant in one case (number of distinct cases or potential cases to be discussed).

The Council then met at 7:00 pm for a regular meeting in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Joe Kornder, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Assistant City Manager, Director of Planning and Inspection, Director of Public Works/City Engineer, City Attorney and City Clerk/Auditor.

- 3.A MOTION was made by Caserta, seconded and unanimously carried, that the Minutes for the meeting held on August 19, 2008 be adopted as written.

4. Steve Hazel addressed the Council and requested that the Director of Planning's memo (09/11/08) regarding the height variance for an 111-foot high roller coaster at California's Great America on this evening's agenda be continued. No action was taken.
- 5.A As a Special Order of Business, the Council considered the Acting Director of Parks and Recreation's memo (09/05/08) regarding the recognition of the Westside Little League players and coaches who were named the California District II Champions. The Mayor introduced the item and Gary Alves, Manager of the 9-10 year old Westside Little League All Stars, then introduced the players and coaches. Photographs were then taken.
- 5.B Also as a Special Order of Business, the Council proceeded to consider the Chief of Police's memo (09/08/08) regarding the award of a Police Department Certificate of Appreciation to City Librarian Karen Saunders and Circulation Supervisor Carolyn Parham. The City Manager reviewed the program. The Chief of Police then reviewed his memo, highlighting the events that led to the arrest of a felon on August 11, 2008 at the Central Park Library with the assistance of Ms. Saunders and Ms. Parham. The Council extended their appreciation and photographs were then taken.
- 6.B As an item of Unfinished Business, the Council proceeded to consider the Director of Planning and Inspection's memo (09/11/08) regarding the height variance for an 111-foot high roller coaster at California's Great America. The Mayor introduced the item and the City Manager reviewed the discussion and action from the July 8, 2008 public hearing on the subject. Because the public hearing was closed at the July 8, 2008 Council meeting, the City Manager reviewed the options for consideration of reports, letters and public hearing options during this evening's meeting. The City Manager then summarized the Director of Planning and Inspection's memo and the staff recommendation. The City Manager and City Attorney then answered Council questions. MOTION was made by Caserta, seconded and unanimously carried, that the Council open the public hearing solely to accept additional written reports that were submitted to the Council after the agenda packet was finalized. MOTION was made by Caserta, seconded and unanimously carried, that the Council accept the written reports submitted by Bill Lentz, Vice-President and General Manager of California's Great America (09/12/08), and Timothy A. Tosta, of Luce, Forward, Hamilton & Scripps, LLP (09/16/08). MOTION was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. The City Manager, City Attorney and Director of Planning and Inspection then answered Council questions and a Council discussion followed. Timothy A. Tosta, of Luce, Forward, Hamilton

& Scripps, LLP, addressed the Council with comments regarding decibel levels being considered against the roller coaster (provided two handouts related to screaming noise and thresholds of significance). Bill Lentz, General Manager of Great America, then addressed the Council with general comments related to the proposed roller coaster. James Rowen, Steve Van Dorn (Santa Clara Chambers of Commerce/Visitors Bureau) and Steve Hazel then addressed the Council with general comments. A Council discussion followed and the Director of Planning and Inspection and the City Manager answered Council questions. **MOTION** was made by Kennedy, seconded and failed to pass with Kolstad, Moore, Caserta and Mahan dissenting, to accept the peer review conducted by Wilson, Ihrig & Associates of the noise analyses submitted by the opposing parties for the proposed new roller coaster at California's Great America Theme Park and its conclusions that there is not a significant noise intrusion within the nearby office buildings, and therefore deny the appeal and adopt a Resolution of findings that determines that the project is exempt from the California Environmental Quality Act (CEQA) and that approves the height variance for an 111-foot high roller coaster as proposed, subject to conditions. A Council discussion followed. **MOTION** was then made by Caserta, seconded and carried with McLeod dissenting, to refer the issue to the City Manager to work with the parties involved, consider the environmental impact review options and report back at the October 28, 2008 Council meeting.

7.A Kevin Park addressed the Council requesting that the Director of Water and Sewer Utilities' memo (08/12/08) regarding the adoption of a resolution approving the Water Supply Assessment for 900 Kiely Boulevard Application be pulled from the Consent Calendar for discussion directly after consideration of the Consent Calendar.

7.A.1 **MOTION** made by McLeod, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (09/10/08), the Council **approve** the acceptance of work performed by Beltramo Electric, Inc on the Traffic Signal Modifications at Washington Street and Newhall Street and at Agnew Road At-grade Crossing and **authorize** the recordation of the Notice of Completion (CE 06-07-07).

- 7.A.2 MOTION was made by McLeod, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (09/10/08), the Council adopt Resolution No. 08-7555 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS ON HOPE DRIVE" which establishes a No Stopping, Standing or Parking at any time zone on the north side of Hope Drive, east of Lafayette Street up to 200 feet east of the intersection.
- 7.A.3 MOTION was made by McLeod, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (09/10/08), the Council adopt Resolution No. 08-7556 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ORDERING THE VACATION OF A PUBLIC UTILITY EASEMENT AND TWO WIRE CLEARANCE EASEMENTS LOCATED AT 3510-3530 DE LA CRUZ BOULEVARD [APN 101-09-026 (2007-08)]" which orders the vacation of a public utility easement and two wire clearance easements at 3510-3530 De La Cruz Boulevard to North Valley Baptist Church of Santa Clara and authorize the recordation of the Resolution (APN 101-09-026; S.C. 16,877).
- 7.A.4 MOTION was made by McLeod, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (09/10/08), the Council adopt Resolution No. 08-7557 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN PARKING REGULATIONS ON CORONADO DRIVE AND ON STENDER WAY" which establishes No Parking zones for vehicles in excess of 20 feet in length and with three or more axles on both sides of Coronado Drive and on both sides of Stender Way.
- 7.A.5 MOTION was made by McLeod, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (09/10/08), the Council adopt Resolution No. 08-7558 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING CERTAIN TRAFFIC REGULATIONS AT THE INTERSECTION OF ISABELLA STREET AND CATHERINE STREET" which repeals Section 1 of Resolution No. 08-4296 establishing a 2-way Stop Sign on Isabella Street at Catherine Street and establishes a 2-way Stop Sign on Isabella Street at Catherine Street.
- 7.A.6 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Public Works/City Engineer (09/10/08), the Council accept the work performed by D. A. Pope, Inc. for public improvements including installation of sidewalk, curb ramps, retaining wall, traffic detector loops, pedestrian pole/push button and cross walk striping located at 2600 San Tomas Expressway and authorize the recordation of the Notice of Completion (Site No. 6639, SOP 11,858, APN 224-11-065).

- 7.A.7 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (09/10/08), the Council take a position of opposition to Proposition 7, the Solar and Clean Energy Act of 2008; authorize the transmittal of a letter of opposition to Assembly Member Jim Beall and Senator Elaine Alquist; and authorize the Mayor and City Manager to take follow-up actions as appropriate.
- 7.A.8 MOTION made by McLeod, seconded and unanimously carried, that per the Senior Staff Aide (09/05/08), the Council approve the publication of the November 2008 Mission City SCENES.
- 7.A.9 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (09/10/08), the Council approve the use of City Electric forces for the installation of facilities at 3105 Patrick Henry Drive, 1777 Agnew Road, and 1285 Walsh Avenue.
- 7.A.10 MOTION made by McLeod, seconded and unanimously carried, that per the Acting Director of Parks and Recreation (09/05/08), the Council accept a donation in the amount of \$300 from Suzanne Avina to help support the Senior Center Case Management Program and authorize the transmittal of a letter of appreciation signed by the Mayor and City Manager.
- 7.A.11 MOTION made by McLeod, seconded and unanimously carried, that per the Acting Director of Parks and Recreation (09/05/08), the Council accept a donation in the amount of \$250 from Daniel Straus to help support the Senior Center Case Management Program and authorize the transmittal of a letter of appreciation signed by the Mayor and City Manager.
- 7.A.12 MOTION made by McLeod, seconded and unanimously carried, that per the Acting Director of Parks and Recreation (09/05/08), the Council accept a donation in the amount of \$2,000 from The Community Foundation of Santa Cruz County to help support the Senior Center Case Management Program and authorize the transmittal of a letter of appreciation signed by the Mayor and City Manager.
- 7.A.14 MOTION made by McLeod, seconded and unanimously carried, that per the Administrative Analyst to the City Manager (09/10/08), the Council adopt Resolution No. 08-7559 entitled, "A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD BORROW LOCAL GOVERNMENT, REDEVELOPMENT AND TRANSPORTATION FUNDS" which opposes State budget decisions impacting local government funds.

- 7.A.15 **MOTION** made by McLeod, seconded and unanimously carried, that, per the Executive Assistant to the City Manager (09/11/08), the Council **adopt** the recommended positions regarding League of California Cities 2008 Annual Conference Resolutions and **authorize** the City's voting delegate to cast votes at the League of California Cities Annual Conference to reflect the positions as adopted by the City Council.
- 7.A.16 **MOTION** made by McLeod, seconded and unanimously carried, that per the Housing and Community Services Division Manager (08/28/08), the Council **approve** the Consolidated Annual Performance and Evaluation Report for fiscal year 2007-08 for the Community Development Block Grant (CDBG) and the Home Investment Partnerships Act Program (HOME) and **authorize** the City Manager to execute the documents for submission to the U.S. Department of Housing and Urban Development (HUD).
- 7.B.1 **MOTION** made by McLeod, seconded and unanimously carried, that per the Director of Streets and Automotive Services (09/03/08), the Council **approve**, and authorize the City Manager to execute, an agreement with Serrano Electric, Inc., in an amount not to exceed \$225,000 in the first year or \$410,000 over the three year term, for general electrical and related services at various City properties and on exterior grounds and parking structure at the Santa Clara Convention Center (Maintenance Assessment District #183).
- 7.B.2 **MOTION** made by McLeod, seconded and unanimously carried, that per the Director of Finance (08/25/08), the Council **approve**, and authorize the City Manager to execute, Amendment No. 2 to the agreement with Moreland Temporary Services, a division of Macias, Gini & O'Connell, LLP, in an amount not to exceed \$32,000, to extend the contract to March 31, 2009 and to reimburse the consultant for mileage.
- 7.B.3 **MOTION** made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (08/29/08), the Council **approve**, and authorize the City Manager to execute, Amendment No. 1 to the Service Agreement with Bay City Boiler Engineering Company, Inc., in an amount not to exceed \$100,000, to provide high pressure steam maintenance at the Donald Von Raesfeld (DVR) Power Plant and the Cogeneration Power Plant.
- 7.B.4 **MOTION** made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (09/10/08), the Council **approve**, and authorize the City Manager to execute, a Grazing Lease with Schene Enterprises, Inc. for a portion of property known as the Benicia Ranch, Solano County.

- 7.B.5 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Streets and Automotive Services (09/03/08), the Council **approve**, and authorize the City Manager to execute, an agreement with Universal Sweeping Services, in an amount not to exceed \$100,000 for the first year and \$250,000 over the three year term, to perform general sweeping and related services at the Santa Clara Convention Center Complex (Maintenance Assessment District #183).
- 7.B.6 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Finance (09/10/08), the Council **approve**, and authorize the City Manager to execute, a Services Agreement with TopDown Consulting, Inc., in an amount not to exceed \$73,600, for the budget system upgrade (Hyperion Planning).
- 7.B.7 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (09/03/08), the Council **approve**, and authorize the City Manager to execute, an Agreement with Osmose Utilities Services, Inc., in an amount not to exceed \$656,240.47, to provide pole inspection, treatment and transformer address survey.
- 7.B.8 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (08/28/08), the Council **approve**, and authorize the City Manager to execute, an Agreement with Basic Chemical Solutions, LLC, in an amount not to exceed \$339,206, for bulk chemicals for the Donald Von Raesfeld (DVR) Power Plant.
- 7.B.9 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Streets and Automotive Services (09/03/08), the Council **approve**, and authorize the City Manager to execute, an Agreement with Fairway Painting Associates, Inc., in an amount not to exceed \$250,000 in the first year or \$575,000 over the three-year term, to perform general painting maintenance and related services at the Santa Clara Convention Center Complex (Maintenance Assessment District #183).
- 7.B.10 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (08/13/08), the Council **approve**, and authorize the City Manager to execute, a Call Agreement with National Resource Management, Inc. and Call No. 08-1, in an amount not to exceed \$250,000, for the Express Refrigeration Third Party Energy Efficiency Program.

- 7.B.11 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (08/29/08), the Council approve, and authorize the City Manager to execute, Call No. 08-1 with BEW Engineering, in an amount not to exceed \$125,000, for consulting support services for the Electric Department Resources Division.
- 7.B.12 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Electric Utility (09/12/08), the Council approve, and authorize the City Manager to execute, a Call Agreement with JACO Environmental and Call No. 08-1, in an amount not to exceed \$89,500, for the recycling of old and inefficient refrigerator, freezer and room air conditioners.
- 7.B.13 MOTION made by McLeod, seconded and unanimously carried, that per the Director of Finance (08/27/08), the Council approve, and authorize the City Manager to execute, Amendment No. 1 to the Agreement with Vavrinek, Trine & Day Co., LLP to increase the amount by \$7,000 to a total not to exceed amount of \$888,100 for financial audit services and authorize the execution of future engagement letters and other documents related to the agreement.
- 7.C.1,2,3,4 MOTION was made by McLeod, seconded and unanimously carried, that the Council note and file the following Informational Memos: Request from Taxicab Drivers Association for Fare Increase and Fuel Surcharge (Chief of Police - 09/10/08); Distribution of the 2008-09 Budget Brochure (Director of Finance - 08/25/08); Vote Ethics 2008 Campaign: 2008 Newspaper Publication (Deputy City Manager - 09/10/08) and Groundbreaking Ceremony for The Commons Project - 09/11/08).
- 7.D.1 MOTION was made by McLeod, seconded and unanimously carried, that the Council note and file the Historical and Landmarks Commission Minutes for the meeting of August 7, 2008.
- 7.E.1 MOTION was made by McLeod, seconded and unanimously carried, that, per the Director of Planning and Inspection (08/25/08), the Council approve ABC Tree Farms request for a Special Permit to conduct Pumpkin Patch/Christmas Tree sales at 3590 Benton Street (PLN2008-07275) subject to the following conditions: 1) This permit shall extend for a period of two years and will expire on December 31, 2009; 2) The applicant shall obtain Fire Marshall approval and permits for tent location prior to each event; 3) The applicant shall obtain Building Official permits and approvals and comply with all Building Code requirements prior to each event; 4) The applicant shall apply for any temporary signage use prior to placement of signs; 5) At the conclusion of each event, the site shall be cleaned and returned to its original condition; and 6) This permit shall be limited to the

following events: a) Pumpkin Patch: September 24, 2008 through November 3, 2008; b) Christmas Tree Sales: November 20, 2008 through December 28, 2008; c) Pumpkin Patch: September 25, 2009 through October 31, 2009; and d) Christmas Tree Sales: November 24, 2009 through December 24, 2009.

7.E.2

MOTION was made by McLeod, seconded and unanimously carried, that, per the Director of Planning and Inspection (08/25/08), the Council approve ABC Tree Farms request for a Special Permit to conduct Pumpkin Patch/Christmas Tree sales at 2380 Monroe Street (PLN2008-07274) subject to the following conditions: 1) This permit shall extend for a period of two years and will expire on December 31, 2009; 2) The applicant shall obtain Fire Marshall approval and permits for tent location prior to each event; 3) The applicant shall obtain Building Official permits and approvals and comply with all Building Code requirements prior to each event; 4) The applicant shall apply for any temporary signage use prior to placement of signs; 5) At the conclusion of each event, the site shall be cleaned and returned to its original condition; and 6) This permit shall be limited to the following events: a) Pumpkin Patch: September 24, 2008 through November 3, 2008; b) Christmas Tree Sales: November 20, 2008 through December 28, 2008; c) Pumpkin Patch: September 25, 2009 through October 31, 2009; and d) Christmas Tree Sales: November 24, 2009 through December 24, 2009.

7.E.3

MOTION made by McLeod, seconded and unanimously carried, that per the Chief of Police (08/21/08), the Council approve the Santa Clara Portuguese Band (Sociedade Filarmonica Uniao Portuguesa de Santa Clara) request to hold a parade for the Band's 34th Anniversary celebration held on September 21, 2008 at 9:15 am commencing at the S.E.S. Hall at 1375 Lafayette Street to the St. Clare Church on Lexington Street and for the hanging of street banners with the condition that the Sociedade Filarmonica provide six volunteers to assist the Police Department with traffic control.

7.E.4

MOTION made by McLeod, seconded and unanimously carried, that the Council approve the Santa Clara Portuguese Band (Sociedade Filarmonica Uniao Portuguesa de Santa Clara) request for approval of a Permit for Outdoor Amplification of Music for Saturday, September 20, 2008 and September 21, 2008 from 12 pm to 11 pm for the Band's 34th anniversary celebration at the S.E.S. Hall parking lot located at 1375 Lafayette Street.

7.A.13

The Council proceeded to consider the Director of Water and Sewer Utilities' memo (08/12/08) regarding the adoption of a resolution approving the Water Supply Assessment for 900 Kiely Boulevard Application. The City Manager reviewed the memo and

answered Council questions. Kevin Park addressed the Council with concerns regarding the report and requested that the Council continue the item. Van Langston also addressed the Council with general concerns regarding the report. Ginger Langston addressed the Council with concerns regarding the report with specific reference to water conservation. A Council discussion followed and the City Manager answered Council questions. **MOTION** was made by Caserta, seconded and unanimously carried, that the Council **refer** the issue to the City Manager to report back at the September 30, 2008 Council meeting.

8.A,8.A.1 **PUBLIC HEARING:** The Mayor declared the hearing open for consideration of the Planning Commission recommendation to deny the application for **rezone** of the property located at **1575 Pomeroy Avenue** from Single Family Residential (R1-6L) to Planned Development (PD/R3-18D) to demolish the existing residence and construct three detached townhomes (PLN2007-06781 - Kurt Anderson of Anderson Architects/ERN Speno LLC). The City Manager clarified the issue with the subject property address and the ownership of the parcel. The Director of Planning and Inspection then reviewed his memo (09/02/08) and gave an electronic presentation. The Director of Planning and Inspection answered Council questions. The project applicant was not present. The following people addressed the Council against the denial of the application: Eddie Souza, James Rowen, Van Langston and Kevin Park. Steve Hazel addressed the Council with general comments regarding process. With no further public comment, **MOTION** was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. Further Council questions were answered by the Director of Planning and Inspection and the City Manager. **MOTION** was then made by Kolstad, seconded and carried with McLeod dissenting, that the Council **uphold** the Planning Commission's recommendation to deny the application for rezone of the property located at 1575 Pomeroy Avenue. The Council then duly noted and filed the letter received by Mr. Everett N. Souza regarding an address correction request (Director of Planning and Inspection - 09/12/08).

8.B **PUBLIC HEARING:** The Mayor declared the hearing open for consideration of the approval to uphold the Planning Commission's recommendation to approve the amendment to the previously approved **Planned Development (PD) rezoning** for **1468 Lafayette Street** to retain the existing single family residence as a condominium and to construct one new two unit condominium (total of three condominium units) in lieu of the previous approval to construct four new condominium units (PLN2008-07222). The Director of Planning and Inspection reviewed his memo (09/04/08) and gave an electronic presentation. He then answered Council questions. Sal Caruso, project applicant, then addressed the

Council with comments about the subject project and answered Council questions. With no public comment, **MOTION** was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. The Director of Public Works/City Engineer answered Council questions. Mr. Caruso addressed the Council with closing comments. **MOTION** was then made by McLeod, seconded and carried with Moore, Caserta, and Mahan dissenting, that the Council **continue** the item to the September 30, 2008 Council meeting.

8.C

PUBLIC HEARING: The Mayor declared the hearing open for consideration of the approval of the Planning Commission's recommendation to adopt a Resolution to **rezone** two vacant lots at **1888 and 1898 Fairway Glen Drive** from Single Family Residential (R1-6L) to Planned Development (PD[R1-6L]), in conjunction with the construction of two single family residences (PLN2006-06024 - Richard Haro / Fred Raia and Brian Wilson). The Director of Planning and Inspection reviewed his memo (08/25/08) and answered Council questions. Richard Haro, project applicant, addressed the Council with comments related to the project. The City Attorney answered Council questions. The following people addressed the Council in favor of the proposed rezone: Van Langston, James Rowen and Fred Raia. The following people addressed the Council in opposition to the proposed rezone: Jose Fernando and Kevin Park. With no further public comment, **MOTION** was made by Caserta, seconded and unanimously carried, that the public hearing be closed. The Director of Planning and Inspection answered further Council questions. **MOTION** was then made by Caserta, seconded and unanimously carried, that the Council **adopt Resolution No. 08-7560** entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, REZONING THE PARCELS LOCATED AT 1888 AND 1898 FAIRWAY GLEN DRIVE, SANTA CLARA" which **approves** the rezone of the two vacant lots at 1888 and 1898 Fairway Glen Drive, subject to conditions.

8.D

PUBLIC HEARING: The Mayor declared the hearing open for consideration of the Director of Planning and Inspection's memo (08/25/08) regarding the approval the Subdivision Committee's recommendation to approve a **Tentative Parcel Map** for **1500 Space Park Drive** to subdivide one parcel into three separate properties in accordance with the findings and subject to conditions provided in the Subdivision Committee Minutes of July 28, 2008. With no public comment, **MOTION** was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. **MOTION** was then made by Caserta, seconded and unanimously carried, that the Council **approve** the Tentative Parcel Map for 1500 Space Park Drive, subject to conditions.

8.E PUBLIC HEARING: The Mayor declared the hearing open for consideration of the Director of Finance's memo (08/14/08) regarding the adoption of a Resolution to amend the adopted 2008-09 Municipal Fee Schedule to approve the Water & Sewer Utility/Solar Fees. With no public comment, MOTION was made by Caserta, seconded and unanimously carried, that the Council close the public hearing. The City Manager answered Council questions. MOTION was then made by Caserta, seconded and unanimously carried, that the Council adopt Resolution No. 08-7561 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA ADOPTING THE CITY OF SANTA CLARA MUNICIPAL FEE SCHEDULE 2008-2009 SOLAR FEES WHICH AMENDS THE 2008-2009 SCHEDULE TO INCLUDE WATER AND SEWER FEES FOR INSTALLATION OF SOLAR SYSTEMS" which amends the adopted 2008-09 Municipal Fee Schedule to approve the Water & Sewer Utility/Solar Fees.

10.A MOTION made by Caserta, seconded and unanimously carried, that per the Director of Public Works/City Engineer (09/10/08), the Council award a Contract to FBD Vanguard Construction, Inc., in the amount of \$135,690, for the Removal of Barriers to the Physically Challenged Fiscal Year 2008-09 (CE 08-09-01) and authorize the City Manager to execute change orders in connection with this Project, which in the aggregate, do not exceed \$13,569 (or 10% of the contract amount).

10.B MOTION made by Caserta, seconded and unanimously carried, that per the Director of Water & Sewer Utilities (09/04/08), the Council award Public Works Project 7043 Contract No. WA-2746 to Pacific Infrastructure Corporation, in the amount of \$134,000, for the construction of water storage tank for Well 32 and authorize the City Manager to execute the contract documents on behalf of the City and execute change orders in connection with the project, which in the aggregate do not exceed \$13,400 (or 10% of the contract amount), for a total not to exceed amount of \$147,400.

10.C MOTION made by Caserta, seconded and unanimously carried, that per the Director of Streets and Automotive Services (08/11/08), the Council award a contract to Valley Slurry Seal Company, in an amount not to exceed \$605,027.11, for the 2008 Street Surface Reseal Project and authorize the City Manager to execute all contract documents on behalf of the City.

- 10.D MOTION made by Caserta, seconded and unanimously carried, that per the Director of Public Works/City Engineer (09/12/08), the Council **award** a Contract to Page Construction Company, Inc., in the amount of \$2,614,000, for the Emergency Dispatch Relocation (CE 07-08-04) and **authorize** the City Manager to execute contract documents and change orders in connection with this project, which in the aggregate do not exceed \$212,000 or 8.1% of the contract amount.
- 11.A MOTION was made by Caserta, seconded and unanimously carried, that the Planning Commission Minutes for the meeting held on August 27, 2008 be adopted as written.
- 11.B MOTION was made by Caserta, seconded and unanimously carried, that, per the recommendation contained in the Civil Service Commission Minutes for the meeting of September 8, 2008, the Council approve the modification to the job specification for Electric Helper/Driver and note and file the Minutes.
13. Under Public Presentations, Steve Hazel addressed the Council with general comments regarding current affairs.
- 14.A MOTION made by McLeod, seconded and unanimously carried, that per the City Librarian (09/10/08), the Council **approve** the appropriation of grant funds from the Public Library Fund, in the amount of \$51,700, to augment the operating and capital improvement budgets as follows: \$6,500 to Operating Supplies for Circulation (account 001-1245-87500), \$9,700 to Advertising and Promotion for Administration (account 001-1221-87710), \$1,100 to Conference and Travel for Adult Services (account 001-1241-87820), \$2,200 to Conference and Travel for Circulation Services (account 001-1245-87820), \$2,200 to Conference and Travel for Technology (account 001-1272-87820), and \$30,000 to Capital Improvement Project Automated Library System Phase IV (account 537-1221-80500-5042).
- 14.B MOTION made by Caserta, seconded and unanimously carried, that per the Director of Finance (09/04/08), the Council **approve** 2007-08 budget amendments as follows: **Operating Budget** - a) Downtown Parking Maintenance District transfer \$21 thousand between expenditure categories with no increase in appropriations; b) Convention Center Maintenance District additional appropriations funded by transfer of \$72 thousand from reserves; c) Police Technical Services Internal Service Fund transfer \$12 thousand between expenditure categories with no increase in appropriations; d) Electric Operating Fund 091 transfer from Salaries & Benefits account category \$1.5 million from Materials/Supplies/Services account category \$1.2 million from Electric Cost Reduction Fund \$22.8 million to Electric

Operating Fund Resource & Production Costs \$25.5 million and e) General Fund: transfer of appropriations between various departments and departmental account categories with no increase in overall General Fund appropriations and **Capital Improvements Projects** - a) Parks and Recreation Capital Project Fund transfer between various projects.

- 15.A **MOTION** made by Caserta, seconded and unanimously carried, that the Council **approve Bills and Claims and Progress Payments**.

- 18.A The City Attorney stated that the Council held earlier in the evening at 5:00 pm a **Closed Session** in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and there was not reportable action and for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8; Property: APN 015-31-063; City Negotiator: Jennifer Sparacino, City Manager (or her designee) Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and there was no reportable action and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee) Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Unit #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and there was no reportable action and, as clarified by the City Attorney, for a Conference with Legal Counsel pursuant to Government Code Section 54956.9(b) regarding Anticipated Litigation with City as potential defendant in two cases (number of distinct cases or potential cases to be discussed).

MOTION was made by Caserta, seconded and unanimously carried, that, per the City Attorney (08/12/08), the Council **set September 30, 2008** at 5:00 pm for a **Closed Session** in the Council Conference Room 1) pursuant to Government Code Section 54956.8 for a Conference with Real Property Negotiator regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and 2) for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: City Manager (or her designee), Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

- 19.A **MOTION** was made by McLeod, seconded and unanimously carried, that there being no further business, the meeting was adjourned at 10:35 pm in **Memory of Joseph Ledesma** (retired Santa Clara Police Lieutenant with 28 years of service), **Kathleen (O'Leary) Garrett** (long-time Santa Clara resident), **Mona Hansen** (retired Senior Librarian Assistant with nearly 18 years of service) and **John Demaree** (retired as a Driver/Engineer for the Fire Department after 33 years of service) to Thursday, **September 18, 2008** at 5:30 pm for the **Ethics Training Session** in the City Hall Council Chambers and to Tuesday, **September 30, 2008** at 5:00 pm for a Closed Session in the Council Conference Room and to 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: _____
City Clerk

APPROVE: _____
Mayor